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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,276	07/08/2003	Kristian DiMatteo	01194-458001 / 03-282	8211
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EXAMINER EBRAHIM, NABILA G				
ART UNIT 1618		PAPER NUMBER		
NOTIFICATION DATE 10/20/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/615,276	Applicant(s) DIMATTEO ET AL.
Examiner Nabila G. Ebrahim	Art Unit 1618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

/Nabila G Ebrahim/
Examiner, Art Unit 1618

applicant argues that Smith disclosure does not involve forming a cross-linked polymer matrix. To respond, it is noted that Gray's reference teaches polymeric matrix which is partially cross-linked (page 6, lines 8+). applicant also argues that one skilled in the art would understand that, Smith's process does not involve forming a cross-linked polymer matrix. One skilled in the art would also understand that Smith discloses that his process, including, for example, the solvent, must be very carefully followed in order to obtain his particles with intended properties. To respond, it is noted that after reviewing the solvents and the rules of using the solvents as disclosed in Smith is a conventional chemical instruction that have never stopped people having skill in the art from modifying different disclosures. Gray does not provide an enabling disclosure of how to make the particles covered by these claims, and the combination of these references also does not provide an enabling disclosure for making such particles. To respond, Gray is relied upon for teaching that a metal such as yttrium can be comprised in the pores of the disclosed beads and the purpose of using. Applicant also argues that Gray, at least because Kaminski does not disclose information that would have made one skilled in the art want to try to modify Smith's method to provide the particles covered by claims 1, 3-10, 15, 17-27, 29-31 and 35-37, and Kaminski also does not provide information that would have enabled one skilled in the art to make such a modification to Smith's process if such a person would have wanted to do so. To respond, Kaminski is relied upon for teaching the radioactively labeled monoclonal antibody or radioactively labeled monoclonal antibody which binds to the antibody on the surface of cells (claim 1) and which can be labeled with a radioisotope (example III) to treat cancers